

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON**

IN RE ETHICON, INC., PELVIC REPAIR SYSTEM PRODUCTS LIABILITY LITIGATION	Master File No. 2:12-MD-02327 MDL 2327 JOSEPH R. GOODWIN U.S. DISTRICT JUDGE
THIS DOCUMENT RELATES TO: ETHICON WAVE 5 CASES LISTED IN EXHIBIT A OF DEFENDANTS' NOTICE OF ADOPTION OF PRIOR MOTION	

**NOTICE OF ADOPTION OF DEFENDANTS' PRIOR DAUBERT REPLY
IN FURTHER SUPPORT OF MOTION TO EXCLUDE CERTAIN
GENERAL OPINIONS OF ALAN GARELY, M.D. FOR WAVE 5**

Plaintiffs filed a Notice of Adoption (ECF No. 4478) in Ethicon Wave 5 Case No. 2:12-md-02327, adopting their Response in Opposition to Defendants' Motion to Exclude Certain Opinions of Alan Garely, M.D., ECF No. 2202 ("Plaintiffs' Wave 1 Response"). Defendants hereby adopt and incorporate by reference their prior Reply Memorandum in Ethicon Wave 1, ECF No. 2286, filed in further support of their Motion to Exclude Certain Opinions of Alan Garely, M.D., ECF No. 2128 ("Defendants' Wave 1 Motion").

Defendants acknowledge that on September 1, 2016, the Court issued a Memorandum Opinion and Order, ECF No. 2718 (the "Order"), GRANTING Defendants' Wave 1 Motion in part, DENYING it in part, and RESERVING judgment in part.

Where the Court GRANTED Defendants' Wave 1 Motion, Defendants respectfully request that the Court adopt the same ruling in the Wave 5 Cases for the reasons set forth in the Court's Order.

With respect to Defendants' motion to exclude Dr. Garely's opinions on degradation, the Court DENIED Defendants' Wave 1 Motion as moot because Plaintiffs conceded that Dr. Garely will not offer any opinions about mesh degradation. (See Order, p. 8). In their Wave 5 Opposition, ECF No. 4478, Plaintiffs have adopted their Wave 1 Response and have not offered any new opinions about mesh degradation by Dr. Garely. Accordingly, the Court's Wave 1 ruling should apply.

Where the Court otherwise DENIED or RESERVED judgment on Defendants' Wave 1 Motion, Defendants acknowledge the Court's ruling, and acknowledge the same circumstances apply in Wave 5, but preserve their right to challenge the ruling on appeal.

Respectfully submitted,

August 31, 2017

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CERTIFICATE OF SERVICE

I hereby certify that on August 31, 2017, I electronically filed the foregoing document with the Clerk of the court using CM/ECF system which will send notification of such filing to the CM/ECF participants registered to receive service in this MDL.

/s/ Kelly S. Crawford

Kelly S. Crawford

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